

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA

Case No. **12-20671** CR-LENARD

42 U.S.C. § 1320a-7b(b)(2)(A)  
18 U.S.C. § 982

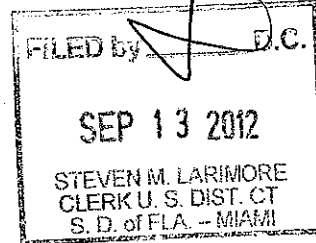
MAGISTRATE JUDGE  
O'SULLIVAN

UNITED STATES OF AMERICA

vs.

YAINIER BETANCOURT,

Defendant.



**INDICTMENT**

The Grand Jury charges that:

**GENERAL ALLEGATIONS**

At all times material to this Indictment:

**The Medicare Program**

1. The Medicare Program ("Medicare") was a federally funded program that provided free or below-cost health care benefits to certain individuals, primarily the elderly, blind, and disabled. The benefits available under Medicare were governed by federal statutes and regulations. The United States Department of Health and Human Services ("HHS"), through its agency, the Centers for Medicare and Medicaid Services ("CMS"), oversaw and administered Medicare. Individuals who received benefits under Medicare were commonly referred to as Medicare "beneficiaries."

2. Medicare was a "health care benefit program," as defined by Title 18, United States Code, Section 24(b) and a Federal health care program, as defined by Title 42, United States Code,

Section 1320a-7b(f).

3. Medicare programs covering different types of benefits were separated into different program "parts." "Part A" of the Medicare program covered certain eligible home health care costs for medical services provided by a home health agency ("HHA"), also referred to as a "provider," to persons who already qualified for Medicare and who additionally required home health services because of an illness or disability that caused them to be homebound. Payments for home health care medical services were typically made directly to a Medicare-certified HHA or provider based on claims submitted to the Medicare program for qualifying services that had been provided to eligible beneficiaries.

4. CMS did not directly pay Medicare Part A claims submitted by Medicare-certified HHAs. CMS contracted with different private companies to administer the Medicare Part A program throughout different parts of the United States. In the State of Florida, CMS contracted with Palmetto Government Benefits Administrators ("Palmetto"). As administrator, Palmetto was to receive, adjudicate and pay claims submitted by HHA providers under the Part A program for home health claims. Additionally, CMS separately contracted with companies in order to review HHA providers' claims data. CMS first contracted with TriCenturion, a Program Safeguard Contractor. Subsequently, on December 15, 2008, CMS contracted with SafeGuard Services, a Zone Program Integrity Contractor. Both TriCenturion and SafeGuard Services safeguarded the Medicare Trust Fund by reviewing HHA providers' claims for potential fraud, waste, and/or abuse.

5. Home health care agencies, pharmacies, physicians, and other health care providers that provided services to Medicare beneficiaries were able to apply for and obtain a Medicare Identification Number or "provider number." In the application, the provider acknowledged that to

be able to participate in the Medicare program, the provider must comply with all Medicare related laws and regulations. A provider who was issued a Medicare Identification Number was able to file claims with Medicare to obtain reimbursement for services provided to beneficiaries. The Medicare Identification Number uniquely identified the provider on billing forms submitted to Medicare.

**The Defendant and his Corporation**

6. Musomed Health Care Corp. ("Musomed") was a corporation organized under the laws of the State of Florida and located at 4260 SW 73rd Avenue, Miami, Florida 33155. Musomed was purportedly engaged in the business of providing home health services to Medicare beneficiaries. Musomed had a Medicare provider number and was eligible to receive reimbursement from Medicare for home health services provided to beneficiaries.

7. Defendant **YAINIER BETANCOURT** was a resident of Miami-Dade County, Florida. Since on or about August 5, 2010, through the present, **BETANCOURT** has been the president, director, and registered agent of Musomed.

**COUNTS 1-4**

**Payment of Kickbacks in Connection with a Federal Health Care Program  
(42 U.S.C. § 1320a-7b(b)(2)(A))**

1. Paragraphs 1 through 7 of the General Allegations section of this Indictment are re-alleged and incorporated by reference as though fully set forth herein.

2. On or about the dates enumerated below as to each count, in Miami-Dade County, in the Southern District of Florida, and elsewhere, the defendant,

**YAINIER BETANCOURT,**

did knowingly and willfully offer and pay remuneration, that is, kickbacks and bribes, in cash and in kind, directly and indirectly, overtly and covertly, to a person, to induce such person to refer an

individual for the furnishing and arranging for the furnishing of any item and service for which payment may be made in whole or in part by a Federal health care program, that is, Medicare, as set forth below:

| Count | Approximate Date | Approximate Kickback Amount |
|-------|------------------|-----------------------------|
| 1     | 02/04/2011       | \$1,600                     |
| 2     | 02/16/2011       | \$3,200                     |
| 3     | 03/04/2011       | \$1,600                     |
| 4     | 04/12/2011       | \$700                       |

In violation of Title 42, United States Code, Section 1320a-7b(b)(2)(A) and Title 18, United States Code, Section 2.

**FORFEITURE**  
**(18 U.S.C. § 982 (a)(7))**

1. The General Allegations and allegations contained in this Indictment are realleged and incorporated by reference as though fully set forth herein for the purpose of alleging forfeiture to the United States of America of certain property in which defendant, **YAINIER BETANCOURT** an interest.

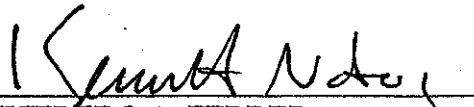
2. Upon conviction of any violation of Title 42 United States Code Section 1320a-7(b), as alleged in Counts 1 through 4 of this Indictment, the defendant, **YAINIER BETANCOURT**, shall forfeit to the United States, any property, real or personal, that constitutes or is derived, directly or indirectly, from gross proceeds traceable to the commission of the offense, pursuant to Title 18, United States Code, Section 982 (a)(7).

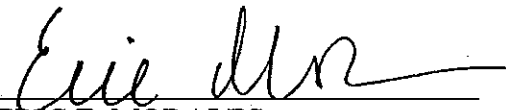
All pursuant to Title 18, United States Code, Section 982(a)(7) and the procedures set forth

at Title 21, United States Code, Section 853, made applicable by Title 18, United States Code,  
Section 982(b).

A TRUE BILL

\_\_\_\_\_  
FOREPERSON

  
\_\_\_\_\_  
WIFREDO A. FERRER  
UNITED STATES ATTORNEY

  
\_\_\_\_\_  
ERIC E. MORALES  
ASSISTANT U.S. ATTORNEY